

ASSEMBLY BILL

No. 1106

Introduced by Assembly Member Achadjian

February 18, 2011

An act to amend Section 6425 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1106, as introduced, Achadjian. Occupational safety and health: death or serious bodily impairment.

Existing law prescribes criminal penalties for the willful violation of an occupational safety or health standard or order causing the death of, or permanent or prolonged impairment to, the employee.

This bill would make nonsubstantive changes to this provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6425 of the Labor Code is amended to
2 read:
3 6425. (a) ~~Any~~An employer and~~any~~ an employee having
4 direction, management, control, or custody of any employment,
5 place of employment, or of any other employee, who willfully
6 violates~~any~~ an occupational safety or health standard, order, or
7 special order, or Section 25910 of the Health and Safety Code,
8 and that violation caused death to~~any~~ an employee, or caused
9 permanent or prolonged impairment of the body of~~any~~ an
10 employee, is guilty of a public offense punishable by imprisonment

1 in a county jail for a term not exceeding one year, or by a fine not
2 exceeding one hundred thousand dollars (\$100,000), or by both
3 that imprisonment and fine; or by imprisonment in the state prison
4 for 16 months, or two or three years, or by a fine of not more than
5 two hundred fifty thousand dollars (\$250,000), or by both that
6 imprisonment and fine; and in either case, if the defendant is a
7 corporation or a limited liability company, the fine may not exceed
8 one million five hundred thousand dollars (\$1,500,000).

9 (b) If the conviction is for a violation committed within seven
10 years after a conviction under subdivision (b), (c), or (d) of Section
11 6423 or subdivision (c) of Section 6430, punishment shall be by
12 imprisonment in *the* state prison for a term of 16 months, two, or
13 three years, or by a fine not exceeding two hundred fifty thousand
14 dollars (\$250,000), or by both that fine and imprisonment, but if
15 the defendant is a corporation or limited liability company, the
16 fine may not be less than five hundred thousand dollars (\$500,000)
17 or more than two million five hundred thousand dollars
18 (\$2,500,000).

19 (c) If the conviction is for a violation committed within seven
20 years after a first conviction of ~~the defendant~~ *defendant* for ~~any a~~
21 crime involving a violation of subdivision (a), punishment shall
22 be by imprisonment in the state prison for two, three, or four years,
23 or by a fine not exceeding two hundred fifty thousand dollars
24 (\$250,000), or by both that fine and imprisonment, but if the
25 defendant is a corporation or a limited liability company, the fine
26 shall not be less than one million dollars (\$1,000,000) but may not
27 exceed three million five hundred thousand dollars (\$3,500,000).

28 (d) In determining the amount of *the* fine to be imposed under
29 this section, the court shall consider all relevant circumstances,
30 including, but not limited to, the nature, circumstance, extent, and
31 gravity of the violation, any prior history of violations by the
32 defendant, the ability of the defendant to pay, and any other matters
33 the court determines the interests of justice require.

34 (e) As used in this section, “willfully” has the same definition
35 as it has in Section 7 of the Penal Code. This subdivision is
36 intended to be a codification of existing law.

37 (f) This section does not prohibit a prosecution under Section
38 192 of the Penal Code.

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